

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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STEPHEN A. MILLER,

Plaintiff,

v.

PACIFIC INVESTMENT MANAGEMENT  
COMPANY LLC, et al.,

Defendants.  
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: Case No. 12-CV-4122 (LTS) (JCF)  
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: ECF CASE  
: ELECTRONICALLY FILED  
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**NOTICE OF MOTION TO DISMISS**

PLEASE TAKE NOTICE that, upon the Amended Complaint and the accompanying Memorandum of Law in support of this Motion to Dismiss, Defendants CME Group, Inc., Kathleen Cronin, and Joseph Adamczyk (together, the “CMEG Defendants”), by and through their undersigned counsel, will move this Court, before the Honorable Laura Taylor Swain, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, Courtroom 11C, for an order dismissing the Amended Complaint with prejudice as to the CMEG Defendants pursuant to Federal Rules of Civil Procedure 8(a), 9(b), and 12(b)(6), and for such other and further relief as the Court may deem just and proper.

**Rule (A)(2)(b) Certification**

Pursuant to Judge Swain’s Individual Practice Rule (A)(2)(b), the CMEG Defendants, through their counsel, certify that they have used their best efforts to resolve informally the matters raised in this Motion. To that end, the parties exchanged letters on December 21, 2012. In their letter, the CMEG Defendants also requested Plaintiff to indicate his availability for a telephone call to discuss the matter, but Plaintiff responded stating that he

preferred not to speak with CMEG Defendants' counsel unless it was before the Court and in person. For the Court's convenience, the CMEG Defendants have submitted copies of the parties' respective letters as attachments to the Declaration of Charles F. Smith. Plaintiff has previously amended his complaint, and this Motion seeks to have his Amended Complaint dismissed with prejudice.

Dated: December 31, 2012  
Chicago, IL

Respectfully submitted,

By: /s/ Charles F. Smith

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